

**MINUTES OF THE SPECIAL MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS**

March 22, 2010 – 4:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
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Present: Carl Ford, Chairman
Chad Mitchell, Vice-Chairman
Jon Barber, Member
Raymond Coltrain, Member
Tina Hall, Member

County Manager Gary Page, County Attorney Jay Dees and Finance Director Leslie Heidrick were present. Clerk to the Board Carolyn Athey was absent.

Chairman Ford convened the meeting at 4:00 pm.

Chairman Ford provided the Invocation and also led the Pledge of Allegiance.

CONSIDER APPROVAL OF THE AGENDA

- Commissioner Mitchell moved to add a discussion regarding a Sheriff replacement to the agenda. Commissioner Coltrain seconded and the motion passed unanimously.

Commissioner Mitchell moved approval of the agenda. Commissioner Coltrain seconded.

- Chairman Ford moved to add a Public Comment Period to the agenda. Commissioner Mitchell seconded and the motion passed unanimously.

Upon being put to a vote, the motion on the floor to approve the agenda passed unanimously.

Chairman Ford added the discussion regarding the Sheriff as agenda item A1.

ADDITIONS:

PUBLIC COMMENT PERIOD

Chairman Ford opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- John Burke spoke in support of the Board appointing Kevin Auten as Sheriff.
- Travis Allen, candidate for Sheriff, felt the Board should not take action to appoint a Sheriff with such a short amount of time before the election. Mr. Allen said the voters of Rowan County would be at the polls in five (5) weeks.

With no one else wishing to address the Board, Chairman Ford closed the Public Comment Period.

A1. DISCUSSION REGARDING REPLACEMENT FOR SHERIFF

(Note regarding discussion: Sheriff George Wilhelm retired in November 2009 and the Board of Commissioners took no action to appoint a Sheriff; in accordance with North Carolina General Statutes, Chief Deputy Kevin Auten assumed the duties of the position. Due to Mr. Auten's interest in seeking election as Sheriff, he sought the opinion of the federal government as to whether he would be in violation of the Hatch Act if he sought election while serving as Chief Deputy. The federal government ruling was that Mr. Auten must either resign by March 26, 2010 as Chief Deputy, or that he be appointed as Sheriff of Rowan County).

Commissioner Coltrain said the Board's duty and charge was to make sure programs were carried out to the best of its' ability for the citizens of the County. Commissioner Coltrain said the Board had to consider the qualifications of the individuals and the track record of Chief Deputy Kevin Auten who had twenty-five (25) years of experience working in every position in the Sheriff's Department. Commissioner Coltrain said unfortunately, due to federal laws, Chief Deputy Auten was in a "lose-lose" situation.

Commissioner Coltrain moved to elect Chief Deputy Kevin Auten to serve as Sheriff until November when the voters will make the final decision on who would be Sheriff for Rowan County. Commissioner Mitchell seconded the motion.

Commissioner Mitchell felt the process had not been carried out in the best manner and that he would be more than willing to delay the decision to allow more individuals the opportunity to comment. Commissioner Mitchell said he thought many people were aware a decision would take place today based on the number of phone calls he had received concerning the meeting and the appointment process for a Sheriff.

Commissioner Mitchell discussed the politics in the Sheriff's race and said if it were not for adding another administrative layer in Rowan County government, the County should probably have a county-run police department, which would eliminate the politics of the position. Commissioner Mitchell felt the Commissioners had made the right decision to not appoint a Sheriff and to allow the public to make the decision at the polls in May and November. Commissioner Mitchell felt the federal government's ruling was not a fair expectation for anyone.

Commissioner Mitchell said Chief Deputy Auten was the only person who had sought a preliminary opinion from the Office of Special Counsel and consequently was the only one who received an opinion from the Office of Special Counsel. Commissioner Mitchell referred to the email from County Attorney Jay Dees, which stated that all candidates for Sheriff could potentially be in the same position as Chief Deputy Auten.

Commissioner Mitchell said the Board should make a decision based on the information before them. Commissioner Mitchell said the decision before the Board was not going to change the perception or opinion of anyone when they went to vote.

Commissioner Mitchell felt appointing Chief Deputy Auten was the right decision and he said it was not a Christian act to upend a man out of his job five (5) weeks before the election. Commissioner Mitchell said the Board put Chief Deputy Auten in the present position; however, the plan did not work and the Board was left "picking up the pieces". Commissioner Mitchell said he did not have a problem waiting a few days; however it would not change the fact that a department head would be needed.

Commissioner Mitchell said Chief Deputy Auten had expressed his willingness to work with anyone else during a transition, if needed. Commissioner Mitchell said he did not feel the Board would be in a bad situation if a candidate other than Chief Deputy Auten won in May.

Commissioner Barber stated he believed the Sheriff's position needed to be above politics. Commissioner Barber said it appeared that Chief Deputy Auten had no other option than to resign unless the Board made the appointment. Commissioner Barber said the citizens of Rowan County deserved a fully functioning Sheriff's Department and not one in constant turmoil. Commissioner Barber said he believed it was necessary for the Board to elect an individual at this time in the interest of consistent public safety and law enforcement.

Commissioner Barber said the Board was elected by the citizens to make decisions according to state statutes and the constitution of North Carolina. Commissioner Barber read the Oath of Office that each Commissioner took when they were sworn in. Commissioner Barber said he swore to uphold the oath and

it was the reason he believed the Board needed to make a decision now. Commissioner felt the Board should have made the decision in December. Commissioner Barber said he could not allow the public safety and law enforcement of the citizens of Rowan County go unmet and potentially be in turmoil.

Commissioner Hall noted there were many individuals in attendance at the meeting and that the Sheriff's appointment was a controversial issue. Commissioner Hall said the office of Sheriff was important and "each of us" takes it very seriously. Commissioner Hall said former Sheriff George Wilhelm's resignation was a surprise to the Board; even though an SBI investigation was ongoing. Commissioner Hall said former Sheriff Wilhelm had appointed Kevin Auten as the Chief Deputy. Commissioner Hall said there were a number of resignations in the Sheriff's Department last summer. Commissioner Hall asked if there would have been a conflict of interest with the Hatch Act if Chief Deputy Auten had remained a Captain, as he was prior to being appointed Chief Deputy.

County Attorney Jay Dees said he had tried to refrain from advising the Board on whether the Hatch Act applied to any specific candidate. Mr. Dees said he was not aware of what the job description was or the duties for a Captain. Mr. Dees said he was not in the position to answer the question.

Commissioner Hall said she did not feel the Board had placed Chief Deputy Auten in the awkward position and she did not want the citizens to feel as though Chief Deputy Auten was being picked on. Commissioner Hall said she had been asked if one of the Board members had called the federal authorities to imply that the Hatch Act should be brought down upon Chief Deputy Auten. Commissioner Hall said she had assured the individual that was not the case but rather Chief Deputy Auten had made the inquiry.

Commissioner Hall said there had been newspaper articles about several other candidates. Commissioner Hall said she did not feel the Board was responsible for whether Chief Deputy Auten needed to resign. Commissioner Hall said he was a candidate for Sheriff and made the decision himself to accept the promotion from then Sheriff Wilhelm. Commissioner Hall said back in December there was another candidate that the republican executive committee was promoting and the Board took the position at the time not to be involved. Commissioner Hall said now, even closer to the election, she did not feel good about taking a position. Commissioner Hall said she was not so sure the decision would not be an endorsement. Commissioner Hall said Election Day was May 4, 2010 and early voting began April 15, 2010. Commissioner Hall said there were a number of good candidates, including Kevin Auten. Commissioner Hall said she was conflicted about the issue. Commissioner Hall said she understood the continuity needed in the Sheriff's Department and she pointed out there were Captains still there. Commissioner Hall said the Board could elect to replace, for this short time, a Captain within the Sheriff's Department.

Commissioner Hall agreed with Commissioner Barber's statement in honoring the oath and said the Board should ensure that an equal chance of success was provided to everyone who ran for office.

Commissioner Hall said it was a shame that she heard about Chief Deputy Auten's situation from the newspaper. Commissioner Hall said she tried to find a copy of the decision from the federal government; however, nothing was officially sent to the Board of Commissioners. Commissioner Hall said the Board did not have an official notification from Mr. Auten at this point. Commissioner Hall said there had been conversations by telephone but nothing in writing. Commissioner felt there should be a delay until something in writing was received by the Board.

Commissioner Coltrain said Chief Deputy Auten chose to find out for himself to ensure he was doing the right thing, which spoke to his character. Commissioner Coltrain said that was why he was willing to support Chief Deputy Auten in the effort. Commissioner Coltrain said as a Commissioner he was responsible for ensuring the continuity in the operations of all county departments. Commissioner Coltrain said he did not see the issue as having a negative effect on anyone's decision when they voted in the May primary. Commissioner Coltrain said his "hat was off to Kevin Auten for making sure he was following the right thing as by the laws for our country and the state." Commissioner Coltrain said his comments did not mean he would be voting for Chief Deputy Auten if given the opportunity.

Chairman Ford said as he understood anyone who received or distributed federal funds could not run for partisan office. Chairman Ford said early voting started April 15 and was only a few weeks away. Chairman Ford said he gave his word that he would not appoint any candidate running for Sheriff. Chairman Ford said Chief Deputy Auten had been doing a fantastic job. Chairman Ford said he had a lot of friends from both parties running for office and all were great guys. Chairman Ford said he was not supporting anyone in the primary per the party plan organization.

Chairman Ford said if this had been a year or two into Sheriff Wilhelm's tenure it would have been different and the Chief Deputy should have been appointed immediately. Chairman Ford said former Sheriff Wilhelm's resignation did come as a surprise even though there were rumors prior to it happening. Chairman Ford said he wanted to let the people decide. Chairman Ford said he had worked with Chief Deputy Auten and said he was a great man and was doing a great job. Chairman Ford said he had given his word that he would not appoint anyone; therefore he would vote no.

Upon being put to a vote the motion on the floor passed 3-2 with Commissioners Hall and Ford dissenting.

Chairman Ford called for a short recess at 4:36 pm.

Chairman Ford reconvened the meeting at 4:44 pm.

1. DISCUSSION REGARDING FY 2009-10 AND FY 2010-11 BUDGETS

County Manager Gary Page said a worksession allowed the Board to give the manager “marching orders” on what was expected for the new year. Mr. Page reminded the Board of last year’s \$4.5 million shortfall and said the Board had been able to make changes to cut \$3.5 million.

Mr. Page referred to the second page of the handout and noted that as of today he estimated the budget would be short \$1.5 million. Mr. Page said with the second highest revenue source being sales tax and six (6) months left to collect he could not really judge where the County would end up. Mr. Page said if the sales tax held at par it “would be great” but if it came up short it could take the shortfall figure to \$2 or \$3 million.

Mr. Page said he had provided a list of suggestions to make up the projected \$1.5 million shortfall. Mr. Page said one of the suggestions for making up the shortfall included furlough days with the first furlough day being April 5. Mr. Page said other suggestions included savings from lower health insurance claims, and unspent capital outlay appropriations from roof repairs that had not yet been made. Mr. Page said the roof repairs would still have to be budgeted next year but would help with this year’s shortfall. Mr. Page said holding the repairs for the next 90 days would not pose a bad threat with the spring and summer months producing less rain.

Mr. Page said the other options included freezing two (2) vacant Sheriff’s positions and two (2) vacant positions in the General Fund. Mr. Page said he was open to any other suggestions and the Board could choose which items to move forward with. Mr. Page said he also listed items to help with the fiscal year 2010-11 projected shortfall.

Commissioner Barber inquired on the current unreserved, undesignated fund balance and Ms. Heidrick responded \$22 million. Commissioner Barber asked if the number was on target with the amount projected and Ms. Heidrick said that the projection was a little lower.

In response to Commissioner Barber, Ms. Heidrick explained that sales tax was the biggest factor for the change in fund balance.

Commissioner Barber asked about the loss of lottery proceeds to the State and whether the County received some of the money back. Ms. Heidrick said the County did receive some money back and she had budgeted the money.

Commissioner Barber said there was currently an amount that was categorized as unreserved designated for special purposes that did not fall in the unreserved

undesignated fund balance of \$22.2 million. Commissioner Barber said the amount was approximately \$1.7 million, which had been set aside for many years to use for Summit Corporate Center. Ms. Heidrick confirmed Commissioner Barber's statement.

Commissioner Barber inquired if the funds appropriated as unreserved designated could be moved to the unreserved undesignated fund to be used for whatever the Board wished. Ms. Heidrick said the Board could move the funds and she explained that the majority of the money designated for special purposes was restricted due to its relation to donations or grants. Ms. Heidrick said through the years as lots in the industrial park were sold, the funds were put aside for the park. Ms. Heidrick said it was a Board designation and could be moved wherever.

Commissioner Barber asked the Board to consider moving the funds from unreserved designated for special purposes to fund balance and use the money to help with the challenges for the current 2010 projected revenue shortfall and the projected 2011 revenue shortfall.

Commissioner Barber stated he did not support furlough days for the employees either to help with the current revenue shortfall or the 2011 projected shortfall. Commissioner Barber also stated he did not plan to support a budget that required furloughs, reduced salaries or that required employees to contribute to their health insurance. Commissioner Barber said he would consider increasing co-pays.

Commissioner Barber said the three (3) furlough days previously given to the employees wiped out the Cost of Living Adjustment (COLA) previously given. Commissioner Barber said the Board continued to balance the budget on the backs of its employees and he did not want to continue to do so, especially if the Board would be willing to move the funds as he suggested.

Commissioner Mitchell said the capital outlay information showed that \$373,100 could be saved in the current budget by pushing the projects to July 1. Commissioner Mitchell asked about the items that said "purchase is completed" if the amount was truly \$373,100 with the purchase completed on several items. Ms. Heidrick explained the money shown for purchase completed items was left over after the purchase. Ms. Heidrick said a Request for Proposals had been released for one (1) type of roof with the others scheduled to go out. Ms. Heidrick said she would like to go ahead and line those projects up and bring them to the Board before June for approval with a construction company, proceeding with the projects in July.

Ms. Heidrick confirmed to Commissioner Mitchell that the money listed in the purchase completed items was leftover.

In response to Commissioner Mitchell, Ms. Heidrick said the Rowan Museum roof, the Crawford Building roof and the Justice Center roofs were the three (3) needing repairs.

Commissioner Mitchell asked if the spreadsheet showing when debt service items were coming off was available. Ms. Heidrick said she could email the spreadsheet to the Board after the meeting.

Commissioner Barber noted the South Rowan Library debt obligation ended April 30. Ms. Heidrick said she believed that debt service in total for next year would increase \$370,000. Ms. Heidrick said the new debt was particularly due to the Town Creek project.

Commissioner Mitchell said he would like to know how bad the roofs were before authorizing a contract. Commissioner Mitchell asked if the County typically paid cash for those items and Ms. Heidrick said yes.

Mr. Page said he had been asked before the meeting about the \$1.7 million and said the County did not do a capital improvements budget where the money was put in by ordinance and would not allow the money to be moved. Mr. Page said the money was earmarked for Summit Corporate Center but was not in the form of an ordinance. Mr. Page said \$373,100 was a low number. Mr. Page said the Museum and Crawford Building roofs were in bad shape; however the Justice Center roof may be able to be delayed another year.

Commissioner Mitchell said he did not necessarily support moving the \$1.7 million into unreserved undesignated due to his fear that the funds would probably never be moved back for Summit. Commissioner Mitchell said there may be an employer that needed the funds for improvements in Summit. Commissioner Mitchell said as long as there was \$22 million in undesignated unreserved funds he did not feel the necessity to move the funds.

Commissioner Mitchell said he personally supported lowering health insurance claims through nine (9) months. Commissioner Mitchell inquired if the employees were being provided with a Cadillac plan that would require taxes to be paid on the plan. Mr. Page said he thought next year's budget option of co-pays being raised might fix that.

Commissioner Mitchell said he supported freezing the unspent appropriations for capital outlay, freezing the vacant positions in the Sheriff's department and General Fund.

Commissioner Mitchell said he hoped the Manager would incorporate what he thought the Board would support into the 2011 budget and the Board could move from there.

Mr. Page asked for a consensus for the current year and said he would spend the next 90 days working on next year's budget.

Commissioner Mitchell noted \$100,000 a year was spent for non-profit contributions and said he hated to cut government when the expenditure was still at full capacity. Mr. Page said he used lower numbers on those items and the Board would need to discuss the Parks and Library hours. Commissioner Mitchell said he preferred not to cut those hours as staff had done a great job during the bad economy. Commissioner Mitchell said if the cuts he just suggested were implemented, the shortfall would only be \$720,000 and the County would still be in good shape.

Commissioner Barber confirmed Commissioner Mitchell's suggestions and asked if he would make them in the form of a motion.

Commissioner Mitchell moved to formulize the cuts of lower health insurance claims, freezing the unspent appropriations for capital outlay, freezing two (2) Sheriff's department vacant positions and freezing two (2) vacant positions in the and General Fund. Commissioner Barber seconded the motion.

Commissioner Barber said he could support leaving the \$1.7 million where it is; however he felt the Board should realize that was additional money that could be used to help with the current budget and next year's budget.

Commissioner Mitchell asked what the vacant positions were in the General Fund and Mr. Page said the positions were from Major Bost and Ken Deal's retirements.

Commissioner Coltrain agreed with the suggestions and did not feel that the Board should penalize the County employees. Commissioner Coltrain said he would support the motion as stated.

Commissioner Hall asked the County Manager if other cuts were considered.

Mr. Page pointed out last year positions were frozen, furlough days were given, hiring was frozen and all the departments' budgets were cut 5%. Mr. Page said this year it was difficult to find cuts due to the cuts made previously. Mr. Page said cutting millions of dollars would be found in cutting positions, benefits, furloughs and large ticket items such as school funding. Mr. Page said he cut the capital and budgets down and the only items left were what he had suggested.

In response to Commissioner Hall's inquiry, Mr. Page said he was hoping the departments would return 6% of their budgets.

Commissioner Hall asked if the motion should include insisting the departments return 6% of their budget.

Mr. Page said he had been lucky in sending the message to the directors that saving money was a necessity. Mr. Page said at the monthly staff meetings the budget had been a high priority. Mr. Page said when the departments saved, it prevented cutting positions, benefits and eliminated furloughs.

Commissioner Hall asked Mr. Page if he would feel comfortable adding in the motion that the departments were expected to turn in 6%. Mr. Page said he could put the pressure on the directors.

Commissioner Barber said he would not like to add an amendment to the motion due to the fact that some departments' budgets were tied to state grants and adding that to the motion may put those state dollars at risk. Commissioner Barber said he would want to know what the impact would be from the directors.

Commissioner Hall said she hated to spring furlough days on the employees this late in the year. Commissioner Hall said the other suggestions were easily supportable and she would go with Mr. Page's other recommendations at this point.

Chairman Ford said the furlough days were needed last year and they "wreaked havoc" with some departments. Chairman Ford said he thought the County could get by with no furlough days, or at the most one (1). Chairman Ford said the lower health insurance claims were a blessing. Chairman Ford said he was also in support of freezing the vacant positions. Chairman Ford said thanks to the Board and staff, Rowan County was not in the same shape as Mecklenburg and Cabarrus counties.

Mr. Page clarified that the actual non-profit contributions were around \$1 million and he was only suggesting cutting those by 10%.

Upon being put to a vote the motion on the floor passed unanimously.

Commissioner Barber said he did not want the Board to lose sight of the fact that there was \$1.7 million sitting in unreserved designated for special purposes as there may be some special purposes coming up. Commissioner Barber said one example would be capital improvement needs at Rowan Cabarrus Community College (RCCC). Commissioner Barber said the Board needed to address how to pay for those needs.

Commissioner Barber said he thought the Board needed to look at things to confirm to the employees that they were valued as it may be hard to find a COLA in next year's budget. Commissioner Barber said he would like the Board to consider giving employees another holiday or adding one more day of comp time to accruals. Commissioner Barber said he would like some costs brought back to the Board for his suggestions to recognize the value employees put into County government. Commissioner Barber instructed staff to come back with

some things the Board could do to reward the employees even though it might not include a COLA.

Commissioner Coltrain said when he worked for the State employees were given another holiday for several years and it was not added to their accrual rates. Commissioner Coltrain said it was appreciated and did not have any affect on government operations. Commissioner Coltrain said the comp day might create additional problems if the day was not used.

Commissioner Hall said the additional cuts were being looked at for next year rather than expanding government.

Mr. Page said when revenues were not coming in there was no money to expand. Mr. Page said there could be no new programs; no COLA and the only option would be to maintain services. Mr. Page said the Board cut the capital outlay; however, it would be added back next year and would require positions and benefits to be cut in order to cover those costs.

Commissioner Hall said she had visited RCCC and there were incredible needs there. Commissioner Hall said the school system has presented a \$3.3 million increase and she asked how the County would respond knowing there were needs at RCCC, as well as additional cuts needed.

Mr. Page said he did not see where there would be any revenue stream to meet a \$3.3 million request or even half. Mr. Page said he would hate to cut county employee positions and benefits to free up money for the schools. Mr. Page said if the Board wanted to fund the request the money would have to come straight from fund balance. Mr. Page said if the school system were short \$3.3 million they would have to use a combination of cuts and fund balance to make up the shortfall. Mr. Page said it had been stated the schools do not have to keep a fund balance; however he preferred for them to keep a fund balance to prevent having to ask the Board for money every time an issue came along.

Commissioner Hall said there were huge needs at the libraries and other places with the revenue stream looking bleak. Mr. Page agreed and said he had mentioned earlier that no new programs could be taken on. Mr. Page said another ambulance station was needed in the west Rowan area, as well as a library in the western area. Mr. Page said if the County found itself in the position where the economy provided new revenue to work with, those needs might be fulfilled. Mr. Page said when revenues were flat or dropping there was no way to support those projects without raising taxes.

Commissioner Coltrain said if the Board could convince the new Sheriff to work at the same salary as the Chief Deputy there may be some savings.

Commissioner Mitchell said it was obvious the Manager was going to have to implement everything on the list for fiscal year 2010-11, hopefully holding off on furlough days. Commissioner Mitchell said he felt all the suggestions would have to be implemented while holding off on any other increases.

Chairman Ford said he wanted to keep the \$1.7 million suggested by Commissioner Barber on the front burner as it may be a real option for the Board to consider. Commissioner Mitchell said if there were one (1) time expenses "to pay with it for".

Chairman Ford said roofs were an issue that could lead to other expenses such as replacing equipment, ceilings and floors. Commissioner Mitchell agreed using part of the \$1.7 million to pay for the roof repairs might not be a bad idea.

Commissioner Coltrain asked Ms. Heidrick to check as to how much of those funds could be available to the Board.

Chairman Ford said he had talked to a lot of employees and most had said they were happy to be employed and loved their insurance. Chairman Ford said he appreciated that the employees understood the economy.

Commissioner Hall requested Ms. Heidrick to provide a history of the \$1.7 million fund she was asked to research.

10. ADJOURNMENT

There being no further business to come before the Board, Commissioner Coltrain moved to adjourn at 5:36 pm. The motion was seconded by Commissioner Barber and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC
Clerk to the Board/Assistant to the County Manager